

Montana can't afford the death penalty

By JIM OPPEDAHN

The economic crisis across our country is forcing states to look carefully at every public expenditure as they struggle to balance their budgets. Montana's proposed budget for the next two years has already seen huge reductions. Some of these reductions will be very painful. Others may be long overdue.

I was the state court administrator in Montana for a decade. I know how resource-starved our justice system really is. During my tenure, I saw a court system that was underfunded, understaffed and had more work to do than was humanly possible.

Yet for all the resource strain on our courts, there is one program that Montana has never really examined from a financial perspective — the death penalty.

There is a widely held myth that the death penalty is cheaper than life without parole. The reality, however, is just the opposite. More than a dozen states have studied the cost of their death penalty systems, and every one of those states has found the same thing — that the death penalty is far more expensive than a system of life without parole.

The difference ranges from the hundreds of thousands to the tens of millions. The most recent study, in Maryland, found that every death sentence costs \$1.9 million more than a comparable non-death penalty case, even when you factor in the cost of long prison terms.

Montana's system is likely no different. Like other states, Montana's death penalty cases are far more complicated than any other kind of case. They involve double the number of attorneys, more pretrial motions, expensive experts, a longer jury selection process, and far more preparation and time spent in court than other cases. And these costs are only for the trial portion of a death case. Once a death sentence is handed down, the appeals begin and can last for decades.

For all this extra expense, Montana has no system to accurately track how much it spends at the local or state level on the death penalty. If the death penalty actually saved money, one might imagine that the records would be meticulous. The reality is that the death penalty pumps millions of dollars of very scarce public resources into a handful of executions and then buries those costs in a thicket of legal proceedings that never appear as line items in any budget.

We may not know just how much we are wasting on this system, but we do know what we are getting for it. The answer is very little. Montana has sentenced over 20 people to death since the death penalty was reinstated. Of those, three people have been executed and two remain on death row. The rest have been overturned after many, many years of reversals and retrials.

For those cases where an execution did take place, it took from nine to 20 years before the actual execution was carried out. And both men on death row in Montana today have been there for over 15 years.

When I think back to my work as a court administrator, charged with making the courts run on far too few resources, I find these numbers both staggering and offensive.

At first glance, one might wonder why we don't just shorten and cheapen the process. But the death penalty is irreversible, and cutting corners would mean making mistakes that could risk executing an innocent person. Montana has already made such mistakes in non-death penalty cases, and the next mistake could be deadly. So the high cost of the death penalty is something we will be saddled with for as long as we choose to have a death penalty.

As we all struggle with a faltering economic system and the 2009 Legislature tries to balance the state's budget for the next two years, it may be a good time to consider the enormous costs of the death penalty. Can Montana really afford to spend millions of dollars to carry out an execution? Do we really want to squander millions of dollars defending death sentences that ultimately end up as life without parole sentences anyway? Is this really how we want to spend scarce tax dollars in a process that clogs our courts and bogs down the precious time of our law enforcement agencies?

The answer to these questions is a resounding no. There is simply no place for such an enormously expensive government program that accomplishes nothing. And on that criterion alone, the death penalty ought to die.

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